

David J. Bradley, Clerk

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It is not, however, every injury suffered by one prisoner at the hands of another that translates into constitutional liability for prison officials responsible for the victim's safety. Our cases have held that a prison official violates the Eighth Amendment only when two requirements are met. First, the deprivation alleged must be, objectively, "sufficiently serious," *Wilson, supra*, 501 U.S., at 298, 111 S.Ct., at 2324; see also *Hudson v. McMillian, supra*, 503 U.S., at 5, 112 S.Ct., at 998; a prison official's act or omission must result in the denial of "the minimal civilized measure of life's necessities," *Rhodes, supra*, 452 U.S., at 347, 101 S.Ct., at 2399. For a claim (like the one here) based on a failure to prevent harm, the inmate must show that he is incarcerated under conditions posing a substantial risk of serious harm. See *Helling, supra*, 509 U.S., at 35, 113 S.Ct., at 2481. The second requirement follows from the principle that "only the unnecessary and wanton infliction of pain implicates the Eighth Amendment." *Wilson*, 501 U.S., at 297, 111 S.Ct., at 2323 (internal quotation marks, emphasis, and citations omitted). To violate the Cruel and Unusual Punishments Clause, a prison official must have a "sufficiently culpable state of mind." *Ibid.*; see also *id.*, at 302–303, 111 S.Ct., at 2326 *Hudson v. McMillian, supra*, 503 U.S., at 8, 112 S.Ct., at 2480. In prison-conditions cases that state of mind is one of "deliberate indifference" to inmate health or safety.

Farmer v. Brennan, 511 U.S. 825, 834 (1994).

In this case, Dangerfield seeks only money damages. Complaint (Doc. # 1) at 4. He acknowledges, however, that despite the allegedly unconstitutional conditions, he has not contracted Covid-19. More Definite Statement (Doc. # 10) at 2. An inmate cannot recover for emotional damages without a showing of specific physical injury. 42 U.S.C. § 1997e(e); *Herman v. Holiday*, 238 F.3d 660, 665 (5th Cir.2001). Therefore, Dangerfield's conditions of confinement allegations fail to state a claim on which relief can be granted.

Dangerfield also alleges that he is being falsely imprisoned, but asserts no facts in support of that claim and acknowledges that he has been charged with a crime and has had a probable cause hearing. More Definite Statement at 2.

“In order to avoid dismissal for failure to state a claim, a plaintiff must plead specific facts, not mere conclusory allegations....” *Elliott v. Foufas*, 867 F.2d 877, 881 (5th Cir.1989). Dangerfield fails to plead any facts showing that he is being unlawfully detained.

Accordingly, it is ORDERED that the Complaint (Doc. # 1) is DISMISSED pursuant to 28 U.S.C. § 1915A. This dismissal shall count as a strike for purposes of 28 U.S.C. § 1915(g). The Clerk shall forward a copy of this Order to: **Three_Strikes@txs.uscourts.gov**.

It is so ORDERED.

SIGNED on this 24th day of September, 2020.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge